

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA**

DUSTY SANDERSON and	)	
KUHN OIL CO., INC.,	)	
	)	
Plaintiffs,	)	
	)	
vs.	)	Case No. CIV-06-958-M
	)	
CONTINENTAL OPERATING CO., et al.,	)	
	)	
Defendants.	)	

**ORDER**

Before the Court is defendant Mary Bingaman's Motion to Dismiss, filed November 10, 2006. On November 28, 2006, plaintiffs filed their response. Based upon the parties' submissions, the Court makes its determination.

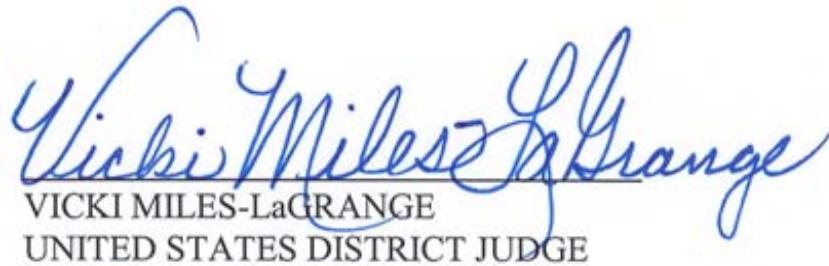
Defendant Bingaman moves this Court, pursuant to Federal Rule of Civil Procedure 12(b)(1), to dismiss this action based on lack of jurisdiction. Specifically, defendant Bingaman contends that there is not complete diversity between the parties and the amount in controversy as pled against each defendant does not exceed \$75,000.00.

28 U.S.C. § 1332 provides, in pertinent part: "The district courts shall have original jurisdiction of all civil actions where the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between – (1) citizens of different States; . . ." 28 U.S.C. § 1332(a)(1). "A case falls within the federal district court's 'original' diversity 'jurisdiction' only if diversity of citizenship among the parties is complete, *i.e.* only if there is no plaintiff and no defendant who are citizens of the same State." *Wis. Dep't of Corr. v. Schacht*, 524 U.S. 381, 388 (1998). "The presence of the nondiverse party automatically destroys original jurisdiction: No party need assert the defect. No party can waive the defect or consent to jurisdiction." *Id.* at 389.

In their response, plaintiffs concede that there is not complete diversity of citizenship among the parties. Plaintiffs' response at 2 ("The Plaintiffs' [sic] maintain complete diversity with all of the Defendants except three."). Because there is not complete diversity among the parties, the Court finds that it does not have jurisdiction over this matter and that this case, therefore, should be dismissed for lack of jurisdiction.

Accordingly, the Court GRANTS defendant Bingaman's Motion to Dismiss [docket no. 5] and DISMISSES this action for lack of jurisdiction.

**IT IS SO ORDERED this 4th day of April, 2007.**



VICKI MILES-LaGRANGE  
UNITED STATES DISTRICT JUDGE